

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

**IN RE: TESTOSTERONE
REPLACEMENT THERAPY
PRODUCTS LIABILITY LITIGATION**

MDL NO.: 2545

NOTICE OF ENTRY REQUESTED

This Document Relates to:

**Simner v. AbbVie, Inc., et al.
1:17-cv-03902**

**PLAINTIFF’S RESPONSE TO CASE MANGEMENT ORDER NO. 110 – ORDER TO
SHOW CAUSE PURSUANT TO CMO NO. 85**

Comes now the plaintiff, by and through counsel, and respectfully files this response to Case Management Order No. 110.

1. On December 8, 2017, this Court issued Case Management Order No. 85 (“CMO No. 85”), which directed all plaintiffs to complete and execute a Plaintiff Profile Form within 90 days of entry of the order.
2. On January 9, 2018, Counsel mailed Plaintiff a copy of the Plaintiff Profile Form to be completed along with a letter advising the client that the Plaintiff Profile Form must be served on Defendants within 90 days of December 8, 2017.
3. Plaintiff returned the Plaintiff Profile Form on February 21, 2018.
4. Due to an inadvertent clerical error, Counsel believed Plaintiff had not yet returned the Plaintiff Profile Form as of March 8, 2018, and followed up on the document with the Plaintiff via telephone. It was subsequently discovered that the Form had been returned, and it was filed with Defendants per CMO 85.

5. Counsel was not acting in bad faith. It was solely due to an inadvertent clerical error that the Plaintiff Profile Form was served after the deadline.
6. The Plaintiff Profile Form and accompanying records were served to the Defendants pursuant to CMO No. 85 on April 26, 2018. Proof of service of the Plaintiff Profile Form is attached as “Exhibit A” to this response.
7. Case Management Order No. 85 states that “Plaintiff’s counsel shall have twenty-one (21) days to respond to said Order to Show Cause, which included the ability to cure the alleged discovery deficiency. There shall be no imposition of a sanction for any plaintiff who cures a deficiency following issuance of an Order to Show Cause.”
8. Plaintiff has cured the alleged deficiency by submitting the Plaintiff Profile Form and the requested records as directed by the Court’s order. Therefore, no sanction and/or dismissal of Plaintiff’s case is necessary.

WHEREFORE, Plaintiff prays the Court excuses the delayed service of the Plaintiff Profile Form and not prejudice Plaintiff’s case or impose any other sanctions.

Respectfully Submitted:

/s/ Sarah Beth Hackman
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CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2018, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will notify all attorneys of record of such filing.

/s/ Sarah Beth Hackman

Counsel for Plaintiff